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REVIEW OF THE FUNCTIONING AND PROGRAMME OF WORK OF THE UNITED NATIONS IN CRIME PREVENTION AND CRIMINAL JUSTICE

Results of the review undertaken by a sub-committee of the Committee on Crime Prevention and Control on the functioning and programme of work of the United Nations in crime prevention and criminal justice**

Note by the Secretary-General

*E/AC.57/1990/1.

**The declaration and report have been reproduced in the form in which they were received; only typographical errors and errors of fact or terminology have been corrected.

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Note

The declaration and report annexed hereto were prepared by a sub-committee of the Committee on Crime Prevention and Control. The sub-committee had been appointed by the Chairman of the Committee on Crime Prevention and Control in accordance with its resolution 10/1 of 31 August 1988 as a continuation of the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice that had been initiated by the Secretary-General in pursuance of General Assembly resolution 40/32 of 29 November 1985.

The sub-committee met at Riyadh on 18-19 January 1989 under the auspices of the Arab Security Studies and Training Center. The meeting was attended by members of the bureau of the Committee and other designated experts, as well as by the directors of the regional and interregional institutes for the prevention of crime and the treatment of offenders, the Arab Security Studies and Training Centre and the Australian Institute of Criminology.

The declaration and report of the sub-committee are hereby transmitted to the Committee on Crime Prevention and Control, for its consideration.

READEX FICHE

WORLD-WIDE CRIME AND THE RESPONSIBILITY OF THE INTERNATIONAL COMMUNITY

A DECLARATION OF THE END OF COMPLACENCY

There comes a time when patience loses virtue. There comes a time when good intentions stand alone as futile. There comes a time when human tragedy is so compounded that honest men and women must seek effective remedies or lose their self-respect.

The tragedy is world-wide crime. The men and women who must speak out include the undersigned. The time is overdue.

Control of crime ranks at the forefront of governmental responsibilities. It is of unique importance. It is a prerequisite to national progress. To the extent that a nation cannot protect the safety and security of its citizens, their possessions and their fundamental institutions, that nation's economic, social, and cultural advancement will be stifled. Yet, in all countries serious crime persists, in most nations it is increasing, and among nations it is burgeoning. Domestic crime has outstripped the control of most individual nations, and transnational crime has accelerated far beyond the current reach of the international community. Most countries need help with problems of national crime, and some need it desperately. All countries manifestly require help with the overwhelming problems of transnational crime.

We, the undersigned, are members of the United Nations Committee on Crime Prevention and Control and heads of the affiliated institutes dealing with problems of crime and justice. We have reviewed the problems of world-wide crime from the standpoint of specialists in the field. We are not alarmists. We have not reached our conclusions in haste. We are professionals and realists who have tried our best to work within existing structures and existing strictures. Over time, though, our tolerance for inadequacy has been eroded by repeated evidence of the tragic plight of victims. Our patience has been ground thin by the creaky wheels of the intergovernmental mechanism in which we find ourselves enmeshed. Our forbearance has been stretched to the snapping point by the witnessing of entire nations falling prey to crime. We have become convinced that effective reduction of world-wide crime requires nothing less than a completely restructured, comprehensive, practical, boldly-active programme several orders of magnitude greater than that yet attempted by the international community. To continue as we have would cost far more - in money, in suffering and in conscience.

With this conviction, we submit the attached report for review by the national representatives attending the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. We commend it to their very careful attention. Upon its consideration, we call for a resolution from the Congress for the drafting of a United Nations Convention on Crime Prevention and Control - a Convention that will detail the structure, functions, and financing of a complete programme for effective assistance against national and transnational crime. We call upon the same national representatives, and their colleagues, for support of such a Convention in the General Assembly.

We call, on behalf of all humanity, for the end of complacency.
(To be individually signed by Committee members and institute heads).

THE NEED FOR THE CREATION OF AN EFFECTIVE INTERNATIONAL CRIME AND JUSTICE PROGRAMME

Report of the Subcommittee established by the Tenth Session of the United Nations Committee on Crime Prevention and Control
Vienna, 22-31 August 1988

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I. INTRODUCTION

1. The effective control of crime and protection of citizens are at the heart of governmental responsibility. If a nation cannot meet this basic responsibility, it has little hope for reaching its potential, from a social, economic and cultural point of view. Crime is an almost insurmountable impediment to harmonious development. It dissipates or misdirects the gains of economic growth and impairs the quality of life. Yet, serious crime, affecting individuals, communities and nations, is becoming more prevasive within countries, and is increasingly transcending national frontiers.

2. Effective international assistance is necessary to help countries in dealing with problems of national and transnational crime. The available assistance is grossly inadequate. Dramatic changes are required in the size and form of the international effort. A programme of adequate scope will prove far less costly to the international community and to individual States than continuing to suffer each year the hundreds of billions in monetary losses and the immeasurably greater human cost which crime inflicts.

3. Such a programme should stem from a binding commitment of the world community of States to invest the necessary human capital and ingenuity, financial resources and modern technical means in the preservation of law, justice and security. This binding commitment can best be achieved through a new international convention - a United Nations Convention on Crime Prevention and Control.

II. THE PROBLEM OF CONTEMPORARY CRIME

4. Serious crime is an extraordinarily severe problem in the majority of the nations of the world. It affects all citizens and all private and governmental enterprises. It has reached such an extent that, from a moral and social standpoint, it cannot be tolerated and, from an economic standpoint, it is so costly to individual citizens and to nations that its sufferance is suicidal.

5. Crime within national borders is only part of the problem. Over the past several years transnational crime has accelerated to scarcely believable dimensions. Modern means of communication, travel, and transfers of goods and money have made international threats out of domestic criminal enterprises. Certain international programmes, as well as many national programmes, have been crippled by proliferating crime.

A. The problem at the national level

6. Crime at the national level is becoming more serious in its extent, its nature, and its costs.

1. The extent of contemporary crime

7. Under most theories, as nations develop socially and economically, the extent of criminal activity should decrease. Unfortunately, many countries, both developing and developed, have not succeeded in reducing criminal activity to a tolerable level. A few nations have been somewhat more successful. Over the past 10 years, however, there has been a considerable increase in the amount of crime in most parts of the world.[1/] The total amount of reported crime has been increasing on a world-wide average of five percent each year - well beyond a rise attributable to population growth.[2/]

At this rate, crime is rapidly outstripping the capacity of national Governments to keep pace with it, and has already out-paced their capacity to reduce it.

8. The number of reported violent crimes against persons - including murders, maimings and rapes - has risen significantly in recent years.[3/] The number of reported property crimes - including robbery, theft, and embezzlement - has increased world-wide over the early 1980's by almost 30 percent.[4/] Today, a country of ten million in population must expect to deal each year with tens of thousands of reported violent crimes and hundreds of thousands of reported crimes involving the taking of property. But these figures reflect only the crimes actually reported by victims to law enforcement authorities. In terms of the crimes that actually take place, as opposed to the crimes the victims have the courage to report, such a country will actually suffer each year over a hundred thousand violent crimes and far over a million crimes involving the taking of money or property. In one developed country, careful surveys of unreported crime have revealed that in an average lifetime one out of 133 citizens will become a murder victim; eight out of ten will become the victim of an attempted violent offence, and over half will be victimized by such a crime more than once; almost every citizen will become the victim of a personal theft, and almost nine out of ten will suffer three or more such personal thefts.[5/]

2. The nature of contemporary crime

9. Disturbing changes are taking place not only in the amount of crime, but also in the nature of crime. Crime by organized criminal groups has expanded to alarming proportions, with particularly serious consequences in terms of physical violence, intimidation and corruption of public officials. Terrorism has claimed tens of thousands of innocent victims. Episodes of senseless mass killings have broken out in a number of countries on all continents. Economic offences involving corruption and extortion have tainted the highest levels of government, industry and banking. Predatory trafficking in addictive narcotics has become a world-wide tragedy - it has crippled the lives of the addicted victims; it has brought millions of other citizens face-to-face with unprecedented violence; and it has so enriched its criminal perpetrators that they can openly flout the authority of States. Criminally reckless environmental destruction has taken such alarming forms and dimensions - through both catastrophic accidents and gradual, insidious despoilation - that it has become recognized as a crime against the world itself.

3. The costs of contemporary crime

10. The true costs of crime, some direct and some indirect, some borne by individuals and some borne by society, have been perceived only sporadically and imperfectly as a few egregious cases break to the surface of general understanding and give a brief glimpse of the tragic price they claim from individuals and societies. The cumulative, ongoing costs are obscured by difficulties in obtaining adequate information and assessing the economic impact of crime and its ramifications. The social cost, in terms of human suffering and loss of productive capacity, is immeasurable. All indicators now suggest that the full impact of crime is staggering.

a. Monetary costs

11. Only to a limited extent can the direct and indirect consequences of crime be estimated in financial terms. The community and the State, of course, bear obvious costs from the operation of an extensive criminal justice

system comprised of police and investigators, a prosecution service, a judiciary, a system of confinement and rehabilitation, programmes designed to alleviate the plight of victims, and a variety of related services. The work of these services is not necessarily crowned with success, as the high recidivism rates indicate.

12. Individuals, too, incur obvious costs. Direct financial costs to the individual victims of crime are borne through medical expenses, loss of earnings and loss of property. 6/ The physical consequences can be violent and brief, or they can be chronic. Victims can also suffer socially and psychologically. The social effects include the possible loss of one's job following disability and, as a result of feelings of insecurity, the shunning of community contacts. The psychological effects resulting from violent crimes, sexual offences, burglary of one's home and other particularly traumatic crimes, can be severe and persistent, manifesting themselves in the form of feelings of fear, shame, depression and guilt, with consequences that affect the victim's ability to function and contribute to society.

13. The indirect costs of crime include the consequences borne by other members of society who are not usually perceived as victims. Some indirect costs are exceedingly difficult to quantify in monetary terms, such as the emotional pain suffered by family members and friends. Others are more susceptible to measurement, even though it can be taken only roughly. Witnesses have to spend hours or even days involved in police investigations and in court proceedings. Consumers will have to pay higher prices as a result of crimes directed at businesses. Property owners face increased insurance premiums, as the calculated risks of theft, arson and other crimes increase. Enterprises unable to afford increased premiums are left without financial protection and thus driven out of business or left vulnerable to catastrophic financial loss. Persons made apprehensive by criminal activity are induced to expend their savings on security devices and services. Citizens find themselves subjected to higher taxes to cover the shortfall caused by tax evaders.

14. The monetary costs of the operation of a crime prevention and criminal justice system are somewhat more susceptible to measurement. 7/ Although nations differ in their approaches to crime prevention and the responses to crime by their differing legal systems, all support the functions of government most commonly discharged by ministries of the interior, ministeries of justice, and the judiciary. As crime rises, the costs of those functions also rise. 8/ The more highly developed countries expend an average of 2 or 3 percent of their budgets on crime control. In developing countries, an average of 9 to 14 percent of the budgets is consumed by the attempt to provide crime prevention and criminal justice services. 9/ As a rough extrapolation, it would appear that national governments collectively expend over 300 billion dollars each year on crime prevention and criminal justice services. 10/

b. Social costs

15. The direct social costs of crime are high in all countries. They stem principally from the serious drain on the human and material resources of countries, reducing the capacity of governments to make progress in other areas of need.

16. The indirect social consequences are at least equal in importance. Over a period of time, crime can lead a nation into one of several forms of social devolution. It can result in numbing stultification, in chaos, or in governmental repression.

17. If citizens suffer from a constant fear of crime, if they are demoralized by pervasive and obvious corruption, or if they are intimidated by the abuse of authority by those in positions of trust, they are not likely to play their expected role in the development of society. When citizens are unable or unwilling to freely participate in national life and the developmental effort, and when at the same time, widespread economic, industrial and organized crime undercuts local and national policies, a country's economic growth and social peace become permanently frustrated.

18. If the State is perceived as being unable to prevent and respond adequately to crime, the confidence of citizens in the efficacy of their government is severely undermined, frustration turns to despair, and then to embittered indifference, and the capacity for personal and national productivity plummets.

19. Moreover, domestic peace and stability are threatened. The burden of crime affects all citizens, but it falls unequally on different groups in society. The groups that are most at risk are often those which are least able to protect themselves against crime and to cope with the depredations that it inflicts. Over time, a breaking point is reached at which private protection and enforcement measures surpass the limits established by law, and violent self-help is undertaken as a last resort.

20. Another chain of consequences includes oppressive reaction. When levels of crime threaten a nation's development, a government may counter with increasingly repressive measures which prove difficult to restrict to their intended purposes, and which may reflect a strong tendency to suppress basic human rights, increase social tensions, and severely undermine the prospects for economic progress.

21. In summary, the ultimate cost of crime is the failure of social and economic development. If government is unable to achieve its most fundamental purpose - protecting citizens from those among them who would transgress the basic rights of others - it has not provided the foundation on which it can achieve its other purposes. Without an effective programme of crime prevention and control, no educational efforts, no agricultural reforms, no anti-poverty measures, no industrial programmes can really succeed. Without domestic tranquility and confidence in government, there can be no true social and economic evolution or attainment of postulated national goals.

B. The problem at the international level

1. The extent and nature of contemporary transnational crime

22. For most of human history, transnational crime was severely limited by simple geographic constraints. The constraints of the past, however, have been overcome by technological developments. Modern methods of transport, communications and transfer of monies have not only created the conditions for the internationalization of business and other endeavours for which they were intended, but they have also created the conditions for the internationalization of crime. Today, organized crime, drug trafficking and terrorism can be perpetrated on a transnational scale fully as easily as they can be on a local scale. Indeed, such illicit activities can be carried out even more easily transnationally; the geographic boundaries that have constituted barriers to the internationalization of business and industry have provided protection for the internationalization of crime. The limited geographic reach of national laws and national law enforcement authorities have made transnational crime more attractive and more lucrative than national

crime. The conflicts among national laws, the confusion of national regulations, and the antiquated international procedures for obtaining evidence and apprehending offenders have made the transnational arena the field of choice for sophisticated criminals. The profits are exceedingly high, and the chances of being brought to justice exceedingly low. The result has been a tremendous burgeoning of transnational crime over the past two decades. Its true costs can scarcely be estimated, but the profits from illegal drug trafficking alone are believed to approximate 500 billion US dollars a year, a sum equal to the combined gross national products of about two thirds of the Member States of the United Nations. 11/

23. Organized criminal enterprises have become exceptionally adept at using new developments in science and technology, and are gaining ground both in scope and in sophistication. Criminal organizations regularly employ virtually every aspect of new technology to collaborate across national frontiers and to use global strategies that no State can counteract alone. These organizations have become particularly adroit in profiting from gaps and differences in national legislation and from lack of effective enforcement in certain national jurisdictions. Moreover, as national barriers become even more permeable, not only as a result of technological but also of political developments, such as regional or sub-regional common markets or other forms of integration, these enterprises have become able to devise and exploit sophisticated strategies that would be the envy of major legitimate businesses.

24. The effects of transtional crime have been devastating. A particularly heinous form of organized crime - trafficking in narcotic drugs - has not only spawned dramatically increased levels of violent crime in the nations in which the products are produced, processed and sold, it has subverted entire national economies and directly challenged the authority of governments. Terrorism, particularly in the form of bombings, hijackings and kidnappings, has become increasingly transnational. Transnational fraud of enormous proportions has been made possible through advances in computer and communications technology; large-scale fraud is no longer the province solely of criminal enterprises since today a single computer operator in one country can fraudulently manipulate major economic transactions in a country on the other side of the world. Corrupt looting of national treasuries and investment of the funds in foreign banking institutions have succeeded on a scale that a few decades ago could scarcely have been imagined. Similarly, the frequency and scale of other transnational crimes are on the increase, including such offences as illegal arms trafficking, traffic in persons, exploitation of migrants, and thefts of works of art and artifacts that constitute a nation's cultural heritage. Moreover, illegal industrial practices and criminal negligence can destroy the natural environment far beyond any nation's borders.

2. The costs of contemporary transnational crime

25. The costs of transnational crime are beyond calculation, and almost beyond comprehension. The criminal profits alone total billions upon billions of US dollars a year. The indirect costs are far greater still.

III. THE NEED FOR INTERNATIONAL CO-OPERATION AND ASSISTANCE

26. In view of the scope and consequences of crime at the national and transnational levels, all countries are in need of co-operation and assistance, to one degree or another, in dealing with their national crime

problems. All nations are in serious need of co-operation and assistance in confronting problems of transnational crime.

A. Co-operation and assistance in dealing with crime at the national level

27. The nature of the problems posed by crime, and the responses that seem most promising, vary to some extent with the economic, social, political and cultural features of the respective countries. Nonetheless, there are enough common features for the international exchange of ideas and experiences to be perceived as mutually advantageous. While the definition and cultural circumstances of offences vary, the basic crimes, underlying motives, methods of perpetration, and means by which they might be prevented, are common to all countries. The similarities in this respect are far more numerous and important than the differences among States.

28. Nations can, therefore, learn from the experience of others, both positive and negative, in attempting to meet the difficulties posed by crime. Successful solutions can be replicated and costly mistakes avoided. Knowledge of the gains made by other countries may suggest promising avenues that otherwise might not have been apparent. Understanding of the failures of others can caution against taking a similar route.

29. There are several areas in which all nations can benefit from sound information on the experience of others. Criminological research on the reasons for the occurrence and persistence of criminality can suggest a variety of ways by which a country can prevent a significant portion of the crime it currently experiences, and by which it might reduce the impact of that which cannot be prevented. A methodology for accurately assessing the true level of crime, the hidden costs of crime and the efficacy of the various components of the criminal justice system, may suggest the desirability of a quite different allocation of national resources. An understanding of legal and procedural innovations in other countries can lead to more effective investigative techniques, more secure means of protecting witnesses and justice system personnel, more rational structuring and application of penal laws, and more effective sanctions in order to fulfill the purposes of sentencing. Knowledge of new technological applications can lead to a variety of improvements: for example, in the investigative area, to cost-effective computerized fingerprint techniques and chromosome analyses that will make the identification process more rapid and reliable; in the prosecutorial and judicial areas, to more effective case management and legal research techniques; and in the penal and correctional areas, to the reasoned use of electronic locating devices, permitting realistic alternatives to incarceration, providing that essential human rights are observed.

30. States can be assisted in supplying each other with the requisite information by the development of a readily accessible computer network providing access to research information, by the compilation of special texts, by the promotion of international training programmes, by the exchange of experts, and by fellowships and group study tours.

B. Co-operation and assistance in dealing with crime at the international level

31. International assistance to individual countries facing transnational crime problems can take the forms outlined above. In addition, however, such assistance must overcome problems posed by national boundaries. Specifically, nations require informed assistance in developing and becoming a party to bilateral and multilateral treaties which can overcome many of the present

barriers to effective investigation, prosecution and disposition of transnational offenders. Model agreements can be developed to guide the preparation of understandings and treaties promoting informal investigative mutual assistance, formal mutual assistance at the investigative and trial stages, the exchange of evidence, the securing of the presence of the defendant for trial, or permitting trial without his/her presence, and the enforcement of criminal judgements against offenders including seizure of their illegal assets. Moreover, the potential utility of more direct co-operative efforts is beginning to be appreciated. Examples of the latter include the creation of a mechanism for the collaborative international investigation of particularly serious forms of transnational crime, the possible establishment of an international criminal jurisdiction, and the creation of an international fund for assistance to crime victims, especially for victims of terrorism.

IV. THE INADEQUACY OF THE PRESENT CO-OPERATION AND ASSISTANCE

32. The mechanisms available today for assisting countries with problems of crime and justice are grossly deficient. The more effective instances of assistance and co-operation have arisen sporadically, for the most part, and largely only on a bilateral basis, in a belated response to an overwhelming problem. In spite of its pioneering role and the undeniable efforts made, the capacity of the United Nations to respond effectively in this field has been sadly limited by material and logistical constraints.

A. Bilateral co-operation

33. The necessity of international co-operation in dealing with crime and justice has long been recognized. The traditional scope of such co-operation, however, has been bilateral. This has been characteristic of most agreements on mutual assistance, extradition and recognition of penal judgements. While bilateral co-operation provides a mechanism for specific arrangements through which two countries might co-operate, these are of extremely limited utility in a world of over 160 national states, faced with a dramatic upsurge of transnational crime. Sophisticated international criminals make a mockery of bilateral arrangements, easily moving their administrative and financial operations from one country to another, and staying well ahead of frustrated diplomats attempting to work out a string of bilateral agreements on a seriatim basis.

B. Regional co-operation

34. Recent years have witnessed the development of regional and sub-regional co-operation in crime prevention and control. The more encouraging examples have been linked with the process of regional integration in the political, economic, and cultural fields. 12/ However, because of contemporary and historical differences, the various regional and sub-regional arrangements do not begin to form the basis of an integrated and comprehensive network for international co-operation in crime prevention and criminal justice matters.

C. Interregional co-operation

35. Interregional co-operation is an approach that holds great promise. It is also the least developed.

1. Activities by organizations other than the United Nations

36. The International Criminal Police Organization has undertaken to co-ordinate a number of operational policing efforts at the international level, and has proved to be of considerable assistance. International non-governmental and scientific organizations comprised of criminologists, victimologists, lawyers, judges and correctional administrators, among others, have facilitated the international exchange of information and ideas in their respective areas of competence. 13/ These organizations, however, cannot be expected to deal with intergovernmental criminal policy matters for the successful prevention and control of crime, nor can they provide concerted international action - though they can usefully play their part in it.

2. United Nations activities in the crime field

37. The United Nations is the only existing entity that has the general mandate and the international constituency necessary to provide countries with effective assistance in preventing and controlling national and transnational crime. It lacks, however, the organizational capacity to fully and effectively discharge this responsibility.

38. The United Nations Charter states the Organization's aim of safeguarding universal values, including the protection of life, health, and security of the people of the world. Fundamental in this concept is protection against the threat and depredations of crime, as well as the pursuance of peace and justice. 14/ Despite the honest efforts of the Secretariat over the past decades, and some achievements - mostly in the promulgation of basic standards and norms against which countries can assess their progress - the expressions of concern voiced at the United Nations Congresses and in other fora have more often been followed by interminable discussion than by effective organization and action.

39. Current United Nations activities in this field are carried out through the following modalities:

a. Quinquennial United Nations Congresses on the Prevention of Crime and the Treatment of Offenders

40. The United Nations Congresses on the Prevention of Crime and the Treatment of Offenders are held every five years. The national delegations are drawn largely from the ranks of senior criminal justice policy makers. The Congresses are, thus, unique in permitting senior officials of the ministries of justice and the interior to have a formal role in policy development within the United Nations structure. Moreover, the Congresses bring together these governmental representatives with representatives of professional organizations and of research institutes and with individual experts, thus facilitating the cross-fertilization of expertise and experience relating to policy initiatives, legislative and scientific developments, and other relevant matters.

41. It is this cross-fertilization that is probably the most important benefit of the current Congresses. Even so, recognition must be given to the work accomplished over the past 40 years, reflected in the adoption by the Congresses of international instruments in the field of crime prevention and criminal justice ranging from the Standard Minimum Rules for the Treatment of Prisoners and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, to the Code of Conduct for Law Enforcement Officials, the Standard

Minimum Rules for the Administration of Juvenile Justice, the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, and the Basic Principles on the Independence of the Judiciary. 15/

42. Despite these significant achievements, the formal function of the Congresses - to give general policy direction for United Nations crime and justice activities over the ensuing five years - has become somewhat illusionary because of the plethora of "high priority" resolutions passed by each Congress and the resulting necessity of leaving to the United Nations entitites the responsibility for picking and choosing among the recommendations for the handful upon which they will be able to focus their limited resources. There is no effective mechanism for assuring the implementation of even the most important of the resolutions adopted by the Congresses.

b. The United Nations Committee on Crime Prevention and Control

43. The United Nations Committee on Crime Prevention and Control, which is comprised of criminal justice professionals, is a standing committee of the Economic and Social Council that serves as the policy-making body for the United Nations' crime and justice activities and as the preparatory body for the United Nations Congresses. 16/ The Committee, however, meets only once every two years, for an eight-day session, and consequently finds most of its working time absorbed by the responsibility of planning the next Congress. It thus has little realistic opportunity to engage in the kind of careful policy planning and supervision that many of the members find indispensable to the effective operation of the programmes of their own governments. Over the past two decades, the Committee's biennial sessions have been characterized by frequent expressions of frustration in failing repeatedly to induce the United Nations to organize effectively, and to fund adequately, a comprehensive crime and justice programme which would be commensurate with the world-wide need. 17/

c. The Crime Prevention and Criminal Justice Branch of the Secretariat

44. The Crime Prevention and Criminal Justice Branch is the Secretariat unit entrusted with the responsibility of carrying out and co-ordinating the United Nations activities in this field. It has benefited in the past, as it does today, from the services of several highly competent and dedicated professionals. The Branch, however, is understaffed, underfunded and overworked - a neglected stepchild within the United Nations family. The ludicrousness of the situation may be summarized by the following: the Branch is charged with undertaking, on a day-by-day basis, all of the planning and co-ordination of the crime prevention and criminal justice programme, including the assistance that is so desperately requested by developing countries, and yet its staff consists of a handful of professionals, its annual budget comprises only 0.1 percent of the total United Nations Secretariat budget, and its status barely reaches the level of visibility within the United Nations bureaucracy.

45. The mandate of the Branch extends far beyond the capacity of its resources. Among its more important assigned functions are:

(1) Provision of guidance to Member States in the development of criminal justice policies and practical crime prevention and strategies;

(2) Provision of assistance to Member States in the preparation of need analyses and policy determination, as well as the implementation of the

necessary reforms, in line with United Nations guidelines; improved criminal justice administration and the inclusion of crime prevention elements in national planning;

(3) The development, promotion and monitoring of the implementation of international norms and standards in criminal justice and crime prevention;

(4) Management and co-ordination of technical co-operation efforts, criminal justice training and action-oriented research;

(5) Development of models for collaborative international action against transnational crime;

(6) Co-ordination of the crime and justice-related activities of other Secretariat units, and of the United Nations institutes;

(7) The design and performance of world surveys of crime trends and crime prevention/criminal justice strategies, and of in-depth studies in special areas of concern;

(8) Production, collection and dissemination of useful crime and justice information, including delivery of services by the United Nations Crime Prevention and Criminal Justice Information Network.

46. Under any reasonable crime and justice programme, these would be the functions on which the Branch would be expected to expend the bulk of its time, this workload in itself requiring a staff far larger than is presently available. In fact, however, much of the time of the members of the Branch is diverted to planning and servicing the sessions of the Committee and the Congresses. The discrepancy between the extent of need and available means have precluded the achievement of an effective response to the rising tide of crime.

47. One of the main strengths of the United Nations crime prevention and criminal justice programme has been its professional and technical nature, at a time when many other United Nations initiatives have tended to become politicized. This does not mean that because of this virtue the programme should be marginalized and denied the prominence which it justly requires. The high quality of the work products that the Branch has been able to produce masks its plight with regard to resources and status. The problems under which it operates are very real and very abiding.

d. The United Nations institutes

48. There are now six United Nations institutes or United Nations affiliated institutes operating in various regions of the world, and one interregional institute. [18/] They are funded largely by the host Governments, with some outside contributions. They differ in size, funding level, facilities and their relative emphasis on professional training or criminological research. They are similar in that they are comprised of qualified and responsible professionals and that they enjoy a considerable degree of functional independence - which may further explain their efficacy.

49. The work of the institutes - from promoting law reform through the training of judges and prosecutors - has been of high quality and of considerable value. But the demands placed upon the institutes by the countries in their regions - particularly upon the institutes servicing areas

encompassing many developing nations - is far beyond their current capacity. In some cases, also, earmarked funds have determined the nature of projects and precluded full support of the United Nations programme priorities. Means are required to foster inter-institute collaboration and the cross-regional exchange of knowledge and experience.

e. The United Nations anti-crime effort as a whole

50. The United Nations' crime and justice effort has been embarrassingly inadequate for years. Over and over, countries that have recognized their need for outside assistance in meeting problems of crime have requested urgent assistance from the United Nations. [19/] More often than not, they have obtained only heartfelt expressions of sympathy and formal regrets. Over and over, other countries have wanted to request United Nations help in developing particular programmes to assist them in combating crime, but have faced the reality that the United Nations is not equipped, in terms of personnel, structure or budget, to undertake such projects. Over and over, the United Nations policy-making bodies have called for the strengthening of the Crime Prevention and Criminal Justice Branch and the up-grading of its status, but the perverse effect has been that the personnel of the Branch have become even fewer in number and its status further reduced.[20/] All of the proposals for effective change - from national Governments, from United Nations administrators, and from criminal justice professionals - have been ignored, and important initiatives have died a quiet death.

51. In spite of the repeated calls for strengthening the United Nations crime prevention and criminal justice programme, little concrete has been done to bridge the gap between the world-wide needs in this field and the international response. It has become increasingly clear that the organizational and structural constraints on the programme, along with the scarcity of means, have created a vicious circle hampering the fulfilment of its role. The proposal, at the most recent session of the Committee on Crime Prevention and Control, for the creation of a special United Nations Centre, reflected the frustration at this persisting neglect and the awareness that only a drastically strengthened United Nations capability will permit it to discharge adequately its responsibilities relating to crime and justice.

V. DEVELOPMENT OF AN EFFECTIVE INTERNATIONAL CRIME AND JUSTICE PROGRAMME

52. There is only one responsible, practical, and cost-effective solution open to the Governments of the world - the creation of a genuinely effective international crime and justice programme. The programme must encompass all the functions necessary to assist countries in combating problems of national and transnational crime. The programme must be administered under a structure that permits its efficient operation. To facilitate the creation of such a programme, an international convention is needed.

A. The functions of the programme

53. A crime and justice programme able to meet the pressing needs of the contemporary world must be designed to assist countries in meeting problems of both national and transnational crime. It must encompass all forms of assistance - from information exchange and joint research to technical co-operation and collaborative action. It must be able to provide assistance that is highly practical, and to provide it in a timely fashion.

54. At the national level, it should be able to respond to all of the serious needs outlined above. It must be in a position to proffer practical

information, advice and training concerning promising programmes for crime prevention and the effective operation of the components of a well-functioning criminal justice system. It must be able to provide general assistance on a regular basis, and specific assistance when required by exigent circumstances. It must be able to instil a recognition of the value of routine evaluation of on-going national programmes and of occasional reevaluation of traditional legal and procedural approaches with a view of introducing meaningful change. It must be able to help countries to ascertain the costs of crime and to structure laws and policies so as to help reduce them.

55. At the international level, similar functions are required, but, in addition, the programme must be so designed that it can help to overcome the various impediments to justice that in the past have been posed by the limitations of national legal jurisdictions. This can be done not only by preparing innovative yet realistic models of bilateral and multilateral instruments for co-operation, but also by reviewing and developing possibilities for international efforts in the investigation, adjudication and sanctioning of crimes, and in providing relief for victims. 21/

B. The organizational structure of the programme

56. To have any realistic chance of success, the programme must have an organizational structure and size consonant with its important purposes.

57. In its overall operation, the programme must be responsible to a policy-directing body capable of reflecting the practical needs of nations.22/ The programme must be structured to encompass and co-ordinate all the requisite facets of a comprehensive approach, including executive and adjudicative functions. It must be administered in a manner that assures the range of projects necessary to carry out the policy directives, and that follows through with careful co-ordination and supervision of their implementation.

58. With regard to administrative size, the following should be kept in mind: if the United Nations staff of crime and justice personnel were supported by a proportion of the United Nations budget analogous to that allocated by a developed country to similar functions, the staff would not be seven professionals, but between 140 and 210; if the budgetary support reflected the allocations of a developing nation, the professional staff would number between 630 and 980. 23/

59. Its preferable administrative placement, from both a conceptual and practical standpoint, would make it a major unit of the United Nations Secretariat. Among the many advantages would be the possibility of consolidating in one place the more direct crime and justice responsibilities currently being discharged by several United Nations units, the greater ability to coordinate the various functions, including the work of the United Nations institutes, and the convenience in working toward the internationalization of certain investigative, adjudicative, sanctioning and enforcement functions. If, for political or other reasons, a unit of adequate size and independence within the Secretariat does not seem feasible, a new international agency could be established, with separate funding, working, in co-operation with those of the United Nations units which might retain some peripheral crime and justice responsibilities. 24/ If resort to the latter course should prove necessary, it would be with the hope that, some decades hence, the international crime and justice function might be reabsorbed into the United Nations structure.

C. The mechanism for creating the programme

60. The appropriate mechanism for creating an adequate programme and structure would seem to be an international convention on crime and justice. The past two decades have made it clear that a programme commensurate with the need will not evolve within the United Nations through arguments, exhortations, reviews of the programme and resolutions alone. The internal environment, quite clearly, has not proved conducive to acceptance of the concept of fundamental restructuring. An outside effort is required: a well-planned, carefully considered, and meticulously drafted United Nations convention is the only practical recourse.

61. The drafting of this international convention is yet to be done. It can only be done with the firm determination of national governments to strengthen the United Nations programme on crime and justice. It is now high time to make such a collective determination.

62. In view of the time needed to elaborate such a convention, certain measures must be urgently taken, in accordance with the recent General Assembly and Economic and Social Council resolutions calling for the strengthening and up-grading of this programme.

63. Such measures should include as a minimum:

1. The elevation of the Crime Prevention and Criminal Justice Branch at least to the level of a Division, affording it the requisite range of specialized expertise, as well as the degree of autonomy necessary to give its work visibility and leverage.

2. Expansion of the United Nations advisory and technical co-operation activities to make possible the urgently requested technical assistance and adequate follow-up, including proper supervision and co-ordination of the United Nations crime prevention institutes.

3. An energetic fund-raising campaign, with a special donors' conference and intensive consultations with Governments to prepare the ground for the Congress pledging meeting.

4. The provision, with the United Nations computerization process, of means for the full operationalization of the United Nations Crime Prevention and Criminal Justice Information Network, to ensure its proper functioning, and to provide the required information services to Governments and the professional community, facilitate the collection and dissemination of information and the transfer of knowledge and experience.

5. Arrangements for the more effective functioning of the Committee on Crime Prevention and Control, to permit it to fully discharge its policy development and coordinating role.

VI. CONCLUSION

64. National and transnational crime is extraordinarily costly - in monetary terms and in the human suffering and national disruption and/or stagnation it causes. Governments have begun to appreciate the need for collective action and mutual assistance in reducing those costs. The existing mechanisms for such action and assistance, however, are seriously deficient in concept and capacity. It is necessary, therefore, that national Governments develop, and

subscribe to, a broad United Nations Convention on Crime Prevention and Control that would provide the foundation for a genuinely effective international programme of crime prevention and control. Such a convention should provide the framework for an invigorated effort by the international community to meet the challenge of escalating crime. Too long have the gains of development been dissipated and the quality of life been compromised by the depredations of crime. Surely, the world's countries, which have joined forces to resolve other common problems can also mount a more effective response to the widespread threat posed by crime.

65. A restructuring does not mean a denial of everything achieved in the past. The new convention should be based on the consolidation of already existing provisions covered in the instruments adopted. It will require a great amount of work and active international co-operation. Thus, the convention could be submitted only to the Ninth Congress. But the intervening time cannot be lost. Urgent measures to implement the existing instruments and to improve international co-operation in crime prevention and criminal justice are also needed now.

NOTES

1/ No country has been able to obtain a satisfactory measure of the extent of its crime. The best approximation available is that obtained by considering both police figures on reported crime and the results of victim surveys. Unfortunately, the later are available only from a few of the more developed countries. The figures used in this report are based primarily on the national responses to the periodic "United Nations Survey of Crime Trends, Operations of Criminal Justice Systems, and Crime Prevention Strategies."

2/ This figure is based upon preliminary analysis of the results of the Third United Nations Survey for 1980-1986. Data from nine countries (Austria, the Federal Republic of Germany, France, Hungary, Malta, Poland, Portugal, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics) show that the combined total in these countries increased from 12.3 million recorded crimes in 1980 to over 15.5 million in 1986. For the major cities in these countries, the increase was from 1.35 million to 1.69 million, despite the fact that there was little increase in population. For these cities, the rate of reported crimes per 100,000 in population increased from 4,963 to 6,035.

3/ In the countries responding to the Third United Nations Survey, the amount of reported homicides, aggravated assaults, and rapes increased by 9.2% from 1980 to 1986. For details, see the Report of the Secretary-General on the Third United Nations Survey (in preparation).

4/ The figure reflects the Third Survey total for robbery, theft, fraud, and embezzlement. These offenses constitute about 70% of all offenses recorded.

5. Herbert Koppel, Lifetime Likelihood of Victimization, Bureau of Justice Statistics Technical Report, U.S. Department of Justice, March 1987.

6/ In one country, the United States, personal crimes of violence and theft, as well as burglary, larceny, and motor vehicle theft, were estimated to cost their victims 13 billion dollars per year. BJS National Crime Survey and Economic Cost of Crime to Victims, BJS Special Report, NCJ-93450, April 1984.

7/ The criminal justice system in the United States, for example, was estimated to cost the federal, state and local governments 45.6 billion dollars in 1985. Justice Expenditure and Employment in the U.S. 1985, BJS Special Report, NCJ-104460, March 1987, Table 2.

8/ From 1971 to 1977, criminal justice spending more than doubled in the United States, increased by two and a half times in Canada and France, and tripled in Great Britain. (Part of this increase is due to the effect of inflation on a labour-intensive programme). Costs of Criminal Justice, Impact no. 2/1984, Solicitor General of Canada, pp. 7-9.

9/ See, H. Wickwar, The Place of Criminal Justice in Development Planning, Monograph No. 1 of the United Nations Crime Prevention and Criminal Justice Section, New York University Press, New York, 1977. See also, Criminal Justice Systems in Europe, publication of the Helsinki Institute no. 5, Helsinki 1985, pp. 54-55.

10/ The figure is an approximation based in part upon the cost data submitted in response to the Third United Nations Survey, and in part upon the average percentage expenditures revealed in the text when applied to the national budgets of nations that have not yet submitted survey responses.

11/ See, "Anti-Drug Abuse Act of 1988". US Congressional Record-House, 21 October 1988.

12/ The examples of particular note include those of the Council of Europe, the Benelux countries, and the Nordic countries.

13/ These include the International Penal and Penitentiary Foundation; the International Association of Penal Law; the International Society for Criminology; the International Society for Social Defence; the International Association of Judges; the Society for the Reform of Criminal Law; the World Society of Victimology; Amnesty International; the Howard League for Penal Reform; and the International Centre of Sociological, Penal and Penitentiary Research and Studies.

14/ The member States assigned the United Nations a leadership role in crime prevention and control with resolution 155 C (VII) of 13 August 1948. This role was further strengthened with the transfer of the activities of the International Penal and Penitentiary Commission to the United Nations under General Assembly Resolution 415(V) in 1950. It was clearly reaffirmed with ECOSOC resolutions 731 F (XXVIII) of 30 July 1959, 830 D (XXXII) of 2 August 1961, 1086 B (XXXIX) of 30 July 1965 and 1584(1) of 21 May 1971, and again implicit in the promotion and strengthening of international co-operation in this area by General Assembly resolutions 3021 (XXVII) of 18 December 1972, 32/59 and 32/60 of 8 December 1977, 35/171 of 15 December 1980, 36/21 of 9 November 1981, 40/32 of 29 November 1985, and 41/107 of 4 December 1986.

15/ For example, the Seventh Congress adopted over 30 major instruments and resolutions of a substantive nature.

16/ The Committee in ad hoc committees established in 1949 and 1950 to advise the Secretary-General on the formulation and implementation of United Nations leadership in the criminal justice area. The Committee currently consists of 27 members who are nominated by member states and elected by the Economic and Social Council to serve in their individual capacities as experts.

17/ A sense of the concern, if not the frustration, is discernible from the Committee's various reports, beginning at least with that of its Fifth Session in 1978 (at which the Committee reviewed the general problems of worldwide crime in light of the United Nation's limited capacity to assist member nations with the problem, and concluded that the central unit of the United Nations concerned with such activity should be given an organizational status consonant with its overall responsibilities) and continuing through to that of its Tenth Session in 1988 (at which the Committee finally called for the creation of the Subcommittee that has prepared this report).

18/ The institutes, in order of the date of their affiliation with the United Nations, include the international institute located in Rome (UNICRI), and the regional institutes located in Tokyo (UNAFEI), San Jose (ILANUD), Helsinki (HEUNI), Kampala (UNAFRI), which is still in the process of consolidation, Riyadh (the Arab Security and Studies Centre), and Canberra (The Australian Institute of Criminology.

19/ In the period from April 1988 to October 1989, the interregional aviser assiged to work with the Branch received 40 requests for assistance from member states.

20/ When the Committee complained of the inadequate size of the Branch in 1978, it noted that it then had only eight members. When it complained of the inadequate size in 1988, it noted that it then had only seven. Other calls for expanded capacity have come from other quarters. At the 1980 Congress, the President of the host country called for the establishment of a Centre on Crime Prevention and Criminal Justice under an Assistant Secretary-General with adequate staff and resources. Thereafter, the General Assembly requested that the Secretary-General take the steps necessary to assure sufficient resources for an adequate programme by the Secretariat, in accordance with the United Nation's mandate and the recommendations of the Sixth Congress. Similar views were expressed at the Seventh Congress in paragraph 8 of the Guiding Principles for Crime Prevention and Criminal Justice. Again, in 1988, the Economic and Social Council asked that the Secretry-General ensure that the United Nation's anti-crime effort is supported by adequate resources to fulfill its important mandate.

21/ There have been several recent expressions of interest by representatives of national governments concerning the possibility of developing the United Nations capacity to undertake, when called upon to do so, investigative and adjudicatory functions with regard to the subject area of terrorism. A parallel responsibility might also be considered with regard to the disposition of convicted terrorists.

22/ This would enlarge upon the functions currently assigned to the Committee on Crime Prevention and Control.

23/ These figures are derived from the average justice system expenditures for developing and developed nations, noted above at pages 3 and 4.

24/ One possible model for an autonomous but affiliated agency would be that provided by UNICEF. See, "Organization of the Secretariat of UNICEF", E/ICEF/Misc.158/Rev.